

AMENDED IN SENATE MAY 22, 2006
AMENDED IN ASSEMBLY JANUARY 4, 2006
AMENDED IN ASSEMBLY APRIL 11, 2005
CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 798

Introduced by Assembly Member Wolk

February 18, 2005

An act to amend Sections ~~12986~~ 12300, 12301, 12986, and 12987.5 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 798, as amended, Wolk. Delta levee maintenance.

(1) Existing law establishes the Delta Flood Protection Fund in the State Treasury and states the intent of the Legislature that \$12,000,000 be annually appropriated from the fund each year through fiscal year 1998–99, for local assistance under the delta levee maintenance subventions program and for special delta flood protection projects, as specified. Existing law abolishes the Delta Flood Protection Fund on July 1, 2008.

This bill would additionally state the intent of the Legislature to appropriate from the fund additional moneys as they may become available from proceeds from the sale of bonds issued by the state. The bill would abolish the Delta Flood Protection Fund on July 1, 2010.

(1)

(2) Existing law establishes a delta levee maintenance program pursuant to which a local agency may request reimbursement for costs incurred in connection with the maintenance or improvement of

project or nonproject levees in the Sacramento-San Joaquin Delta. Existing law declares legislative intent to reimburse eligible local agencies under this program, until July 1, 2006, in an amount not to exceed 75% of those costs that are incurred in excess of \$1,000 per mile of levee, and on and after that date, in an amount not to exceed 50% of those described costs.

This bill, instead, would declare legislative intent to reimburse up to 75% of those described costs until July 1, ~~2008~~ 2010, and on and after that date, to reimburse up to 50% of those described costs. The bill would require the department, ~~until July 1, 2008, and if it completes upon completion of a specified evaluation, to identify by January 1, 2008,~~ based on that evaluation, those levees that require financial assistance under this program. The bill, ~~upon the identification of those levees by the department,~~ would require the Reclamation Board, *beginning January 1, 2010, and until July 1, 2008* 2010, to allocate available funds under this program only to benefit those levees *identified by the department.*

(2)

(3) Existing law, until July 1, 2006, authorizes the board to provide funds to an eligible local agency under this program in the form of an advance in an amount that does not exceed 75% of the estimated state share.

This bill would extend the operation of that provision to July 1, ~~2008~~ 2010, *beginning January 1, 2007.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *The Sacramento-San Joaquin Delta encompasses many*
- 4 *invaluable and unique resources that are of major statewide*
- 5 *importance, including water supply, agricultural production,*
- 6 *recreation, fisheries, and wildlife habitat.*
- 7 (b) *The key to preserving the delta's physical characteristics*
- 8 *has been the system of levees that defines the waterways and*
- 9 *adjacent lands. An urgent need for a higher degree of levee*
- 10 *maintenance and rehabilitation throughout the delta led the*
- 11 *Legislature to provide state technical and financial assistance for*

1 *levee maintenance and rehabilitation through a program of*
2 *reimbursement to local agencies for a percentage of costs*
3 *incurred for levee maintenance and improvement.*

4 *(c) A major seismic event in the delta would likely cause*
5 *significant damage to levees and key transportation and utility*
6 *infrastructure. The combination of the continuing subsidence of*
7 *delta lands, a rise in sea level, and significant storm runoff*
8 *events create a high probability of catastrophic flooding of delta*
9 *islands. The state's economy and millions of Californians cannot*
10 *afford a lengthy disruption of water supplies derived from the*
11 *delta.*

12 *(d) Although the delta is an area of major statewide*
13 *importance and the preservation of the delta's physical*
14 *characteristics continues to remain a priority, the Legislature*
15 *reaffirms its prior declaration that it may not be economically*
16 *justifiable to maintain all delta islands.*

17 *(e) The Department of Water Resources and the Department*
18 *of Fish and Game have been directed to identify, evaluate, and*
19 *comparatively rate options for maintaining significant resource*
20 *values in the delta. The two departments are required to jointly*
21 *report to the Legislature and the Governor the results of their*
22 *evaluations and options by January 1, 2008.*

23 *(f) It is necessary and desirable to extend the existing delta*
24 *levee maintenance program until the Legislature and Governor*
25 *receive and act upon the report.*

26 *SEC. 2. Section 12300 of the Water Code is amended to read:*

27 *12300. (a) The Delta Flood Protection Fund is hereby created*
28 *in the State Treasury. There shall be deposited in the fund all*
29 *moneys appropriated to the fund, including authorized proceeds*
30 *from the sale of bonds, and all income derived from the*
31 *investment of moneys that are in the fund.*

32 *(b) It is the intent of the Legislature to appropriate, in*
33 *accordance with Section 12938, twelve million dollars*
34 *(\$12,000,000) each year through fiscal year 1998–99 to the Delta*
35 *Flood Protection Fund from moneys deposited in the California*
36 *Water Fund pursuant to subdivision (b) of Section 6217 of the*
37 *Public Resources Code. It is further the intent of the Legislature*
38 *to appropriate annually moneys in the Delta Flood Protection*
39 *Fund to the department for expenditure and allocation, without*

1 regard to fiscal years, in the following amounts and for the
2 following purposes:

3 (1) Six million dollars (\$6,000,000) annually for local
4 assistance under the delta levee maintenance subventions
5 program pursuant to Part 9 (commencing with Section 12980),
6 and for the administration thereof.

7 (2) Six million dollars (\$6,000,000) annually for special delta
8 flood protection projects under Chapter 2 (commencing with
9 Section 12310) and subsidence studies and monitoring, and the
10 administration thereof. These funds shall only be allocated for
11 projects on Bethel, Bradford, Holland, Hotchkiss, Jersey,
12 Sherman, Twitchell, and Webb Islands, and at other locations in
13 the delta and for the Towns of Thornton and Walnut Grove and
14 for approximately 12 miles of levees on islands bordering the
15 Northern Suisun Bay from Van Sickle Island westerly to
16 Montezuma Slough.

17 (3) *Additional moneys as they may become available from*
18 *proceeds from the sale of bonds issued by the state.*

19 (c) Any moneys unexpended at the end of a fiscal year shall
20 revert to the Delta Flood Protection Fund and shall be available
21 for appropriation by the Legislature for the purposes specified in
22 subdivision (b).

23 (d) It is the intent of the Legislature that, to the extent
24 consistent with Sections 12314, 12987, and 78543, projects
25 funded under subdivision (b) shall be consistent with the delta
26 ecosystem restoration strategy of the CALFED Bay-Delta
27 Program.

28 *SEC. 3. Section 12301 of the Water Code is amended to read:*

29 12301. The Delta Flood Protection Fund is hereby abolished
30 on July 1, ~~2008~~ 2010, and all unencumbered moneys in the fund
31 are transferred to the General Fund.

32 ~~SECTION 4.~~

33 *SEC. 4.* Section 12986 of the Water Code, as amended by
34 Section 13 of Chapter 601 of the Statutes of 1996, is amended to
35 read:

36 12986. (a) It is the intention of the Legislature to reimburse
37 an eligible local agency pursuant to this part for costs incurred in
38 any year for the maintenance or improvement of project or
39 nonproject levees as follows:

1 (1) No costs incurred shall be reimbursed if the entire cost
2 incurred per mile of project or nonproject levee is one thousand
3 dollars (\$1,000) or less.

4 (2) Not more than 75 percent of any costs incurred in excess of
5 one thousand dollars (\$1,000) per mile of project or nonproject
6 levee shall be reimbursed.

7 (3) (A) As part of the project plans approved by the board, the
8 department shall require the local agency or an independent
9 financial consultant to provide information regarding the
10 agency's ability to pay for the cost of levee maintenance or
11 improvement. Based on that information, the department may
12 require the local agency or an independent financial consultant to
13 prepare a comprehensive study on the agency's ability to pay.

14 (B) The information or comprehensive study of the agency's
15 ability to pay shall be the basis for determining the maximum
16 allowable reimbursement eligible under this part. Nothing in this
17 paragraph shall be interpreted to increase the maximum
18 reimbursement allowed under paragraph (2).

19 (4) Reimbursements made to the local agency in excess of the
20 maximum allowable reimbursement shall be returned to the
21 department.

22 (5) The department may recover, retroactively, excess
23 reimbursements paid to the local agency from any time after
24 January 1, 1997, based on an updated study of the agency's
25 ability to pay.

26 (6) All final costs allocated or reimbursed under a plan shall
27 be approved by the reclamation board for project and nonproject
28 levee work.

29 (7) Costs incurred pursuant to this part that are eligible for
30 reimbursement include construction costs and associated
31 engineering services, financial or economic analyses,
32 environmental costs, mitigation costs, and habitat improvement
33 costs.

34 (b) ~~(1) If the department completes~~ *Upon completion of its*
35 *evaluation pursuant to Sections 139.2 and 139.4, by January 1,*
36 *2008, the department shall identify, based on that evaluation,*
37 *those levees that require financial assistance under this section.*
38 *Beginning January 1, 2010, and thereafter, only those levees*
39 *identified by the department as requiring financial assistance*

1 *shall receive assistance under this section, absent further*
2 *legislative action.*

3 ~~(2) Upon the identification of levees pursuant to paragraph (1),~~
4 ~~and notwithstanding any other provision of law, the board shall~~
5 ~~allocate available funds under this section only to benefit those~~
6 ~~levees so identified.~~

7 (c) This section shall become inoperative on July 1, 2008, and,
8 as of January 1, 2009 2010, and, as of January 1, 2011, is
9 repealed, unless a later enacted statute, that becomes operative on
10 or before January 1, 2009 2011, deletes or extends the dates on
11 which it becomes inoperative and is repealed.

12 ~~SEC. 2.~~

13 SEC. 5. Section 12986 of the Water Code, as amended by
14 Section 14 of Chapter 601 of the Statutes of 1996, is amended to
15 read:

16 12986. (a) It is the intention of the Legislature to reimburse
17 from the General Fund an eligible local agency pursuant to this
18 part for costs incurred in any year for the maintenance or
19 improvement of project or nonproject levees as follows:

20 (1) No costs incurred shall be reimbursed if the entire cost
21 incurred per mile of levee is one thousand dollars (\$1,000) or
22 less.

23 (2) Fifty percent of any costs incurred in excess of one
24 thousand dollars (\$1,000) per mile of levee shall be reimbursed.

25 (3) The maximum total reimbursement from the General Fund
26 shall not exceed two million dollars (\$2,000,000) annually.

27 (b) This section shall become operative on July 1, 2008 2010.

28 ~~SEC. 3.~~

29 SEC. 6. Section 12987.5 of the Water Code is amended to
30 read:

31 12987.5. (a) In an agreement entered into under Section
32 12987, the board may provide for an advance to the applicant in
33 an amount not to exceed 75 percent of the estimated state share.
34 The agreement shall provide that no advance shall be made until
35 the applicant has incurred costs averaging one thousand dollars
36 (\$1,000) per mile of levee.

37 (b) Advances made under subdivision (a) shall be subtracted
38 from amounts to be reimbursed after the work has been
39 performed. If the department finds that work has not been
40 satisfactorily performed or where advances made actually exceed

1 reimbursable costs, the local agency shall promptly remit to the
2 state all amounts advanced in excess of reimbursable costs. If
3 advances are sought, the board may require a bond to be posted
4 to ensure the faithful performance of the work set forth in the
5 agreement.

6 (c) This section shall become inoperative on July 1, ~~2008, and,~~
7 ~~as of January 1, 2009~~ 2010, *and, as of January 1, 2011*, is
8 repealed, unless a later enacted statute, that becomes operative on
9 or before January 1, ~~2009~~ 2011, deletes or extends the dates on
10 which it becomes inoperative and is repealed.

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